

REPORT OF THE COMMITTEE ON ZONING AND PLANNING

Voting Members:

Ikaika Anderson, Chair; Trevor Ozawa, Vice-Chair;
Carol Fukunaga, Ann H. Kobayashi, Joey Manahan

Committee Meeting Held
March 31, 2016

Honorable Ernest Y. Martin
Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Zoning and Planning, to which was referred Resolution 16-54 entitled:

"RESOLUTION PROPOSING AN AMENDMENT TO CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990 (THE LAND USE ORDINANCE), AS AMENDED, RELATING TO JOINT DEVELOPMENT,"

introduced on February 25, 2016 reports as follows:

The purpose of Resolution 16-54 is to direct the Director of Planning and Permitting to process an amendment to the Land Use Ordinance (LUO), ROH Chapter 21, concerning joint developments in the same manner as if that amendment had been proposed by the Director.

The proposed LUO amendment, attached as Exhibit "A" to the resolution, would amend certain provisions relating to the joint development of two or more subdivision lots.

At your Committee's meeting on March 31, 2016, the Director of Planning and Permitting stated that his department had no objections to the Resolution; however, the Director did submit Departmental Communication No. 207, dated March 31, 2016, requesting additional documentation to assist the department in the processing of the proposed LUO. The Director stated that the department would work further with the introducer of the Resolution to draft the ordinance. The Director recommended that two

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON **APR 20 2016**

COMMITTEE REPORT NO. **106**

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amendments be made to the draft bill to 1) limit the allowed number of overlapping joint development agreements to two or three; and 2) clearly assign the development rights (e.g. credits and bonuses) to the appropriate parcels. The introducer of the Resolution requested that the Director's recommendations be included in the language of the draft bill, Exhibit A to the Resolution, and agreed to work further with the Department of Planning and Permitting on the draft bill.

At your Committee's meeting on March 31, 2016, a representative of Unite Here Local 5 provided comments. The organization's written testimony contained similar comments and expressed opposition to the Resolution.

Your Committee has prepared a CD1 version of the resolution that makes the following amendments:

- A. Amends Sec. 21-5.380(b) of Exhibit A by providing that a subdivision lot may not be a part of more than ____ joint developments.
- B. Amends Sec. 21-5.380(c) of Exhibit A by requiring that if a subdivision lot is part of more than one joint development, each joint development agreement must specify the development rights for that lot that are allocated to that joint development, including, but not limited to, the developable floor area, any height and density bonuses, and any open space credits.
- C. Makes miscellaneous technical and nonsubstantive amendments.

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Your Committee finds that the LUO amendment proposed in this resolution appears to be consistent with the General Plan and Development Plans of the City and it appears that, if enacted, it would be in the best interests of the people of the City and County of Honolulu.

Your Committee on Zoning and Planning is in accord with the intent and purpose of Resolution 16-54, as amended herein, and recommends its adoption in the form attached hereto, as Resolution 16-54, CD1. (Ayes: Anderson, Fukunaga, Kobayashi, Manahan, Ozawa, – 5; Noes: None.)

Respectfully submitted,



Committee Chair

At the 4/20/16 Council meeting, the Resolution was further amended and subsequently adopted as Resolution 16-54, CD1, FD1.

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HONOLULU, HAWAII

ADOPTED ON APR 20 2016

COMMITTEE REPORT NO. 106



RESOLUTION

PROPOSING AN AMENDMENT TO CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990 (THE LAND USE ORDINANCE), AS AMENDED, RELATING TO JOINT DEVELOPMENT.

WHEREAS, Section 21-5.380 of the City's Land Use Ordinance ("LUO") allows owners of adjacent lots to apply for a Conditional Use Permit that allows joint development of the lots if they believe that the joint development will result in more efficient use of their land; and

WHEREAS, under the LUO's joint development provisions, two or more subdivision lots are administratively considered as one zoning lot; and

WHEREAS, the Council desires to amend the LUO's provisions relating to joint development; and

WHEREAS, Section 6-1513 of the Revised Charter of the City and County of Honolulu 1973, as amended ("RCH"), provides that "[a]ny revision of or amendment to the zoning ordinances may be proposed by the council and shall be processed in the same manner as if proposed by the director [of planning and permitting]"; and

WHEREAS, the term "zoning ordinances," as used in RCH Section 6-1513 includes both amendments to the LUO and to ordinances designating particular parcels of property in terms of the LUO; and

WHEREAS, Chapter 2, Article 24, Revised Ordinances of Honolulu 1990, as amended ("ROH"), establishes procedures and deadlines for the processing of Council proposals to revise or amend the general plan, the development plans, the zoning ordinances, and the subdivision ordinance, and clarifies the responsibility of the Director of Planning and Permitting to assist the Council in adequately preparing its proposals for processing; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that the Director of Planning and Permitting and the Planning Commission are directed, pursuant to RCH Section 6-1513, and ROH Chapter 2, Article 24, to process the proposed amendment to ROH Chapter 21 (the "Land Use Ordinance"), attached hereto as Exhibit "A," in the same manner as if the proposal had been proposed by the Director; and

BE IT FURTHER RESOLVED that the Director of Planning and Permitting is directed to inform the Council upon the transmittal of the Director's report and the proposed Land Use Ordinance amendment to the Planning Commission; and



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HONOLULU, HAWAII

No. 16-54, CD1

RESOLUTION

BE IT FINALLY RESOLVED that, pursuant to ROH Chapter 2, Article 24, the Clerk shall transmit copies of this Resolution and the Exhibit attached hereto to the Director of Planning and Permitting and the Planning Commission of the City and County of Honolulu, and shall advise them in writing of the date by which the Director's report and accompanying proposed ordinance are required to be submitted to the Planning Commission.

INTRODUCED BY:

Trevor Ozawa

DATE OF INTRODUCTION:

February 25, 2016
Honolulu, Hawaii

Councilmembers



A BILL FOR AN ORDINANCE

RELATING TO JOINT DEVELOPMENT.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to amend certain provisions relating to the joint development of two or more subdivision lots.

SECTION 2. Section 21-5.380, Revised Ordinances Honolulu 1990 ("Joint development of two or more adjacent subdivision lots"), is amended to read as follows:

"Sec. 21-5.380 Joint development of two or more adjacent subdivision lots.

- (a) Whenever two or more subdivision lots are developed jointly in accordance with the provisions of this section, they shall be considered and treated as one zoning lot for purposes of the joint development. For the purposes of this section "joint development" means those lands subject to the agreement approved by the corporation counsel as provided in subsection (c).
- (b) An owner, owners, duly authorized agents of the owners or duly authorized lessees holding leases with a minimum of 30 years remaining in their terms of adjacent lots who believe that joint development of their property would result in a more efficient use of land shall apply for a conditional use permit (minor) to undertake such development. A subdivision lot may be developed as part of no more than joint developments in accordance with the provisions of this section.
- (c) When applying for a conditional use permit for joint development under this section, the applicants shall submit to the director an agreement which binds themselves and their successors in title or lease, individually and collectively, to maintain the pattern of development of the proposed jointly developed project in such a way that there will be conformity with applicable zoning regulations. Where a subdivision lot is developed as part of more than one joint development, each agreement must be treated independently by the department and separately bind the applicants of each joint development and their successors in title or lease, individually and collectively, in such a way that each jointly developed project will be in conformity with applicable zoning regulations. If a subdivision lot is part of more than one joint development, each joint development agreement must specify the development rights for that lot that are allocated to that joint development, including, but not limited to, the developable floor area, any height and density bonuses, and any open space credits. The right to enforce the agreement shall also be granted to the city.



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ORDINANCE _____

BILL _____

A BILL FOR AN ORDINANCE

The agreement shall be subject to the approval of the corporation counsel of the city.

- (d) If the director finds that the proposed agreement assures future protection of the public interest, the director shall issue the conditional use permit. Upon issuance of the permit, the agreement, which [shall] must be [part of] included among the conditions of the permit, [shall] must be filed as a covenant running with the land with the bureau of conveyances or the registrar of the land court. Proof of such filing in the form of a copy of the covenant certified by the appropriate agency [shall] must be filed with the director prior to the issuance of the building permit."

SECTION 3. Ordinance material to be repealed is bracketed and new ordinance material is underscored. When revising, compiling or printing this Ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, the bracketed material, or the underscoring.



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ORDINANCE _____

BILL _____

A BILL FOR AN ORDINANCE

SECTION 4. This ordinance takes effect upon its approval.

INTRODUCED BY:

DATE OF INTRODUCTION:

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

KIRK CALDWELL, Mayor
City and County of Honolulu